

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

DATA RESEARCH AND HANDLING, INC.,)

d/b/a WORKFORCE RELO,)

Plaintiff,)

v.)

No. 1:15 CV 336

UPSTATE ALLIANCE OF REALTORS, INC.,)

et al.,)

Defendants.)

ORDER

Plaintiff has moved to remand this cause to the Allen Superior Court of the State of Indiana. (DE # 7.) The parties appear to agree that the Clerk of the Allen Superior Court prematurely mailed out an unapproved amended complaint and summonses to defendants. Under 28 U.S.C. § 1446(b), the receipt of those documents triggered a 30-day window of time in which defendants could remove the case to federal court. The parties appear to agree that defendants removed this case in accordance with Section 1446(b), despite the fact that the amended complaint and summonses should not have been mailed in the first place. However, defendants do not contest the appropriateness of remand, so plaintiff's motion is **GRANTED**. (DE # 7.)

Plaintiff also seeks attorney's fees for the costs associated with filing the motion to remand. Such an award is authorized under 28 U.S.C. § 1447(c) when "the removing party lacked an objectively reasonable basis for seeking removal." *Lott v. Pfizer, Inc.*, 492 F.3d 789, 791 (7th Cir. 2007). However, in this case defendants acted reasonably. As all

the parties appear to agree, defendants' removal was technically proper under federal law. That the removal was triggered, prematurely, by an alleged error of the state court clerk does not render defendants' actions objectively unreasonable. Accordingly, the request for attorneys' fees is denied.

SO ORDERED.

Date: September 8, 2016

s/ James T. Moody
JUDGE JAMES T. MOODY
UNITED STATES DISTRICT COURT